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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,156	09/30/2003	Kurt A. Dobbins	026215-00003	9790

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER	
KEEFER, MICHAEL E	

ART UNIT	PAPER NUMBER
2154	

NOTIFICATION DATE	DELIVERY MODE
09/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/673,156	DOBBINS ET AL.	
	Examiner	Art Unit	
	MICHAEL E. KEEFER	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-4 and 7-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-4 and 7-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/9/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed 6/8/2008.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2-4, 7-15, 17-18, and 20-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Moskowitz (US 20030200439).

Regarding **claims 2 and 21**, Moskowitz discloses:

A method of coupling a content tag with a content file transmission, the method comprising: associating the content tag indicating a type of service in accordance with the content of the content file transmission, wherein the content tag is created and associated with the content file transmission at the location where the content file transmission is oriqinally published; ([0030] discloses associating a watermark with a stream of data)

reading the content tag in an instance of peer-to-peer network transmission to determine whether at least part of the content file transmission should be accorded a predetermined type of transmission service; generating flow information for the content file transmission, the flow information including

information specifying the type of service indicated in the content tag; ([0044] disclose reading the watermark and giving QoS to the flow)

transmitting at least part of the content file transmission according to the type of service specified by the flow information over a peer-to-peer network, wherein if the content tag indicates that at least part of the content file transmission should be accorded a predetermined type of transmission service, transmittinq the at least part of the content file transmission with a preferred type of service, and if the content tag does not indicate that at least part of the content file transmission should be accorded a predetermined type of transmission service, transmitting the content file transmission with a standard type of service; and providing the at least part of the content file transmission to a user requested location. (See [0044] and [0034], the QOS tag is optional, so if the watermark does not indicate a predetermined QOS level, the routers will still forward the stream to its final destination..)

Regarding **claim 3 as applied to claim 2**, Moskowitz discloses:

wherein the content is electronic data. ([0030] discloses a stream of data)

Regarding **claims 4 and 23 as applied to claims 2 and 21**, Moskowitz discloses:

wherein the content is media content. ([0030] discloses a stream of data, [0007] discloses Napster, which is used for exchanging media content.)

Regarding **claims 7 and 24 as applied to claims 2 and 23**, Moskowitz discloses:

wherein the content tag enables control on distribution of the content by at least one selected from a group consisting of an owner of the content, a peer-to-peer network, and a service provider. ([0044] allows each router (i.e. network service provider) to control the distribution of the content (i.e. the path etc) on its network.)

Regarding **claim 8 as applied to claim 2**, Moskowitz discloses:

identifying a type of content in order to provide specific transport service to differing types of content. ([0034] discloses that the watermark indicates a QoS type for the content, "in order to provide…" is an intended use limitation which is not being given patentable weight.)

Regarding **claim 9 as applied to claims 2 and 8**, Moskowitz discloses:

wherein identifying a type of content includes: reading the content tag. ([0044] discloses reading the watermark)

Regarding **claims 10 and 11 as applied to claims 2 and 8**, Moskowitz discloses:

wherein the specific transport service includes at least one selected from a group consisting of a predetermined amount of bandwidth, a quality of service, a transmission attribute, an amount of packet loss, and an amount of jitter. ([0044] discloses reliability and latency, among other transmission attributes. Additionally [0050] discloses bandwidth levels.)

Regarding **claim 12 as applied to claim 2**, Moskowitz discloses:

wherein associating the content tag with the content includes: associating a multi-element content tag with the content. (see [0036]-[0042] as well as [0031])

Regarding **claim 13 as applied to claim 2**, Moskowitz discloses:

wherein associating the content tag with the content includes: associating a content tag, wherein the content tag is configured such that the content tag is extendible while remaining machine readable. (the content tag may vary in size, and is always machine readable. See [0030] "the size of the watermark may vary")

Regarding **claim 14 as applied to claims 2 and 13**, Moskowitz discloses:

wherein remaining machine readable content tag includes remaining at least one selected from a group consisting of electronic and data encoded. ([0030] discloses that the content tag has electronic and data in it.)

Regarding **claim 15 as applied to claim 2**, Moskowitz discloses:

authenticating the distribution allowed for the content, and authorizing only the allowed distribution for the content. ([0045] discloses checking that the content is authentic)

Regarding **claims 17 and 25 as applied to claims 2 and 21**, Moskowitz discloses:

wherein the user requested location is a device. ([0044] discloses at least sending the content to another router, if not sending it to a final destination)

Regarding **claims 18 and 26 as applied to claims 2, 17, 21, and 25**, Moskowitz discloses:

wherein the device is one selected from a group consisting of personal computer, a minicomputer, a microcomputer, a mainframe computer, a personal digital assistant, a hand-held device, a set-top box, a cellular telephone, an IP telephone, a videophone, a videogame machine, a television, and a personal video recorder. ([0007] discloses napster, which is used to send content from a PC to a PC)

Regarding **claim 20 as applied to claim 2**, Moskowitz discloses:

wherein the content tag includes electronic bits of information identifying at least one selected from a group consisting of a type of service, a content class or type, an originator of the content, metadata with searchable descriptors, an authentication Uniform Resource Locator (URL) configured to enable dynamic authentication, an association with a type of network service, and a content application. ([0034] a type of service is disclosed)

Regarding **claim 22 as applied to claim 21**, Moskowitz discloses:

wherein transmitting the at least part of the electronic data includes: transmitting the electronic data over a network in which clients and servers are distributed such that an owner of the electronic data does not own the server element on which the electronic data is stored. ([0044], it is clear that the transmitter of the data does not own the routers which the data is transmitted over, nor does the transmitter own the destination of the content.)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 16 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Moskowitz as applied to claims 2 and 15 above, and further in view of Jennings et al. (US 2002/0099842), hereafter Jennings.

Regarding claim 19, Moskowitz discloses:

wherein generating the flow information for the content further comprises: retrieving a transport profile corresponding to the content tag from at least one selected from a group consisting of an external database, a look up table, and a Uniform Resource Locator (URL) serving agent. ([0045] discloses comparing the watermark with a table of known watermarks to determine the authenticity of the watermark, therefore deciding whether to transport the data or not.)

Moskowitz discloses all the limitations of claims 16 and 19 except for including geographic restrictions.

The general concept of using geographic restrictions to limit content distribution is well known in the art as taught by Jennings. (See [0137]-[0139])

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Moskowitz with the general concept of using geographic

restrictions to limit content distribution as taught by Jennings in order to enable the content owner to control who views its content with more granularity. (Jennings [0039])

Response to Arguments

5. Applicant's arguments filed 6/8/2008 have been fully considered but they are not persuasive.

6. The Examiner has withdrawn the rejection of claim 14 under 35 U.S.C. 112 2nd paragraph in view of Applicant's amendment. The Examiner has also withdrawn the objection to the claims.

7. Applicant argues that Moskowitz does not disclose or suggest the method comprising at least the combination of associating the content tag indicating a type of service in accordance with the content, wherein the content tag is created and associated with the content at the location where the content is originally published; reading the content tag in an instance of peer-to-peer network transmission to determine whether at least part of the content should be accorded a predetermined type of transmission service; and transmitting at least part of the content according to the type of service specified by the flow information over a peer-to-peer network. Further, Applicant argues that Moskowitz is only applicable in a server-client distribution, which is substantially point to point or point to multi-point.

8. The Examiner has cited above in the rejections how Moskowitz reads on the prior art. Moskowitz applies a watermark to a stream of data, as admitted by Applicant in the response (page 10). This watermark is identical to a "content tag" to one of ordinary skill in the art, and a "stream" is identical to a "content file transmission". The watermark

gives information concerning how the content transmission (i.e. the stream) is to be given QoS, and the routers act upon this information to provide that quality of service to the stream (see paragraph 44 and paragraphs 30 and 34). The Examiner notes that Moskowitz even discusses a specific peer-to-peer network, Napster™ in paragraph 7, but, barring that, the network that is described by Moskowitz is a peer-to-peer network, because senders can also be receivers.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL E. KEEFER whose telephone number is (571)270-1591. The examiner can normally be reached on Monday through Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MEK 8/29/2008

/Joseph E. Avellino/
Primary Examiner, Art Unit 2146